IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION.

INCOME TAX REFERENCE NO. 181 OF 1996.

The Commissioner of Income Tax,
Bombay City IV, Bombay. ...Applicant.

V/s.

Dr.Beck & Co. (India) Ltd. ... Respondents.

Mr. R. Ashokan for the applicant.

Mr. Arun Sathe with Mandar Vaidya for the respondents.

CORAM : V.C.DAGA & J.P.DEVADHAR,JJ.

DATED : 13.6 .2006.

P.C. :

. Heard.

. The following 2 questions are referred to this Court for its opinion.

.(i) "Whether on the facts and in the circumstances of the case and in law, the Tribunal was right in upholding the order of the CIT(A) holding that the repairs amounting to Rs. 1,40,177/- contrary to the provisions of sec.37(4) by relying on the decision in 177 ITR 124 which relates to the period prior to the introduction of sec. 37(4)?"

.(ii) Whether on the facts and in the circumstances of the case, the tribunal was right in law in upholding the order of the CIT (A) allowing the full/initial contribution was to superannuation fund amounting to Rs. 24,644/- even when 1/5th of 80% of initial contribution was to be allowed in 5 equal instalments.

. Both the parties agree that so far as first

question is concerned, the same is covered by the judgment of the Apex Court in the case of Britania Induistries Ltd. vs. CIT 278 ITR 546(SC) against the assessee. So far as second question is concerned, the same is covered by the judgment of this Court and that of the Apex Court in the case of CIT vs. Mahindra & Mahindra Ltd. reported in 239 ITR 937 and in the case of CIT vs. Sirpur Paper Mills, reported in 237 ITR 41 in favour of the assessee. Both the questions are accordingly stand answered.

. Reference stands disposed of in terms of this order with no order as to costs.

(V.C.DAGA,J.)

(J.P.DEVADHAR,J.)